

Minutes of the Public Meeting
United States Election Assistance Commission
1225 New York Avenue, NW
Washington, DC
February 8, 2007

Public Meeting

Call to Order

Chair Davidson called the meeting to order at 10:00am

Pledge of Allegiance

Chair Davidson led all present in a recitation of the Pledge of Allegiance.

Roll Call

EAC Commissioners

EAC General Counsel Juliet Hodgkins called roll of the members of the Commission and found present: Chair Donetta Davidson, Commissioner Paul DeGregorio, and Commissioner Gracia Hillman.

Senior Staff

General Counsel Juliet Hodgkins.

Adoption of Agenda

Chair Davidson asked for a motion to adopt the agenda. Commissioner DeGregorio moved to adopt the agenda as presented. Commissioner Hillman seconded the motion. The agenda was adopted by unanimous consent of the Commission.

Welcoming Remarks

Chair Davidson welcomed everyone and thanked the panelists in advance for their testimony.

Adoption of Minutes from December 7, 2006 Meeting

Chair Davidson asked for a motion to approve the minutes from the December 7th, 2006 public meeting. Commissioner DeGregorio moved to approve the minutes as presented. Commissioner Hillman seconded the motion. The minutes from the December 7, 2006 Public meeting as presented were adopted unanimously.

EAC Activities Report

General Counsel Hodgkins presented the EAC activities report to the commission. Ms. Hodgkins reported that on January 22, 2007 the EAC's Board of Advisors met in Washington, D.C. The two day meeting served to update the board on the EAC's activities and possible legislation that will impact election administration.

She also reported that three voting system manufacturers have registered to participate in the Commission's testing and certification program. Those manufacturers are Diebold Election Systems, Unison Voting Systems, and Dominion Voting. This is an important first step for the EAC's new program.

Also, the full laboratory testing program came online in January 2007. Prior to that program coming online the EAC's interim accreditation program has currently accredited two labs; SysTest Labs and Wiley Labs, Ciber labs is currently being reviewed. In addition the full laboratory testing program received two laboratory names from NIST and the National Voluntary Laboratory Accreditation Program (NVLAP). The two labs recommended for accreditation by NVLAP were SysTest labs and iBeta Quality Assurance.

Ms. Hodgkins reported that the EAC is in the process of completing its Section 102 program. Letters have been sent out to the states requesting certifications regarding the use of those funds. Once those are reviewed the EAC will make determinations as to whether or not any of those states have funds that need to be returned. Those funds which are returned will be redistributed as requirements payments.

Chair Davidson then opened the floor for discussion.

New Business

Update on EAC Interim Laboratory Accreditation Program

Presenter: Brian Hancock – Director, Voting Systems Certification, U.S. Election Assistance Commission.

Mr. Hancock began his presentation by outlining the EAC's Interim Lab Accreditation Program. The Interim Program was launched in December 2005. The EAC's interim program followed international standards, including following NIST's program. The accreditation process required laboratories to bring their resources, personnel, and procedures into compliance before accreditation is granted.

Mr. Hancock noted that under the EAC's interim accreditation program, two laboratories, SysTest labs and Wiley labs, received interim accreditation. One

laboratory, Ciber labs, continues to work with the EAC to bring its procedures in line with acceptable standards for the interim program.

Presenter: Steven V. Freeman, Assessor, EAC Interim Laboratory Accreditation Program.

Mr. Freeman updated the Commission on his activities in assessing the three laboratories that applied for accreditation under the Interim Laboratory Accreditation program. Mr. Freeman noted that all laboratories are accredited based on international ISO 17205 standards for lab accreditation. The certification tests are to include testing for the HAVA requirements as well as VSS-2002 requirements.

Mr. Freeman reported that in general the labs that applied for accreditation were in better position to apply the ISO 17025 standard than he expected. One lab had already made changes to apply to the standard and were actively using the ISO standards. Mr. Freeman also noted many of the techniques he used in evaluating the labs based on the ISO and HAVA requirements.

Chair Davidson then opened the floor for questions from the Commission.

Commissioner Hillman stated for the record that when people choose to follow the EAC's accreditation program they can do it in a way that provides great resource and great value to the public. But, those entities that do choose to follow these activities have the responsibility to understand what they are reporting on. These are complicated topics and they can't be broken down to simple terms and still do justice to the integrity of the program.

Recess

Chair Davidson recessed the meeting until 11:00 am.

Update on EAC/NVLAP Accreditation Programs

Presenter: David Alderman, Leader, Standards Coordination and Conformity Group, National Institute of Standards and Technology (NIST).

Mr. Alderman reported that HAVA requires NIST to conduct an evaluation of independent non-Federal laboratories, and submit to the EAC a list of those labs that NIST proposes to be accredited to carry out the testing, certification and decertification provided for under HAVA.

Labs are required to meet NVLAP and 2002 VSS and 2005 VVSG standards as well as pay fees in order to be eligible for NIST recommendation. Although NIST

and NVLAP are an integral part of the process, the EAC has the final determination of accreditation of the labs.

Recently NIST informed the EAC that it had completed a comprehensive technical evaluation of the competence of two laboratories, iBeta Quality Insurance and SysTest Labs were recommended for accreditation.

Currently, NVALP and NIST are proceeding with the evaluation of four other labs that have applied and Mr. Alderman anticipates conducting an on-site assessment of a third laboratory within the next month or so. The four labs that have applied for evaluation are: InfoGuard Laboratories, Inc.; BKP Security Labs, Wylie Laboratories, and Ciber Labs.

Presenter: Brian Hancock, Director, Voting Systems Testing and Certification Program, U.S. Election Assistance Commission.

Mr. Hancock reported that on January 18, 2007, the EAC received a list of recommended labs put forward for accreditation under the requirements of HAVA. These labs were iBeta Quality Assurance and SysTest Labs.

Mr. Hancock added that while NIST through NVLAP has thoroughly reviewed these two labs' technical capabilities, procedures, and personnel, the EAC must also carry out its due diligence prior to the Commission voting to accredit these labs. On January 31, 2007, the EAC sent a letter to both labs which requested specific information. The letter asked them to agree to specific program requirements, and to certify certain conditions and practices of their laboratories.

Mr. Hancock noted that the EAC has asked the labs to provide simple information about the lab, including the physical address and contact information for lab personnel, the identity of the lab's insurers, the coverage limits, and a copy of the lab's conflict of interest policy as well other pertinent company information. The EAC has also requested that the lab submit a signed letter of agreement stating their acceptance of certain policies as a pre-condition of EAC accreditation.

The EAC has requested that SysTest and iBeta provide the requested information to the Commission no later than February 15, 2007 for review before the Commission's formal vote.

Mr. Hancock then recommended that the Commission officially end work related to the review of accreditation applications of labs under the interim lab accreditation program as of March 5, 2007.

Chair Davidson then opened the floor for questions from the Commission.

Chair Davidson then opened the floor for motions by the Commission. Commissioner Hillman made a motion to close the EAC's interim laboratory accreditation program as of March 5th, 2007. The motion was seconded by Commissioner DeGregorio.

The Commission unanimously approved the motion to close the EAC's interim laboratory accreditation program as of March 5th, 2007.

Briefing on Eagleton-Motitz's Research on Voter Identification

Presenter: Karen Lynn-Dyson, Research Director, U.S. Election Assistance Commission

Ms. Lynn-Dyson reported that in May of 2005 the EAC awarded a contract to the Eagleton Institute for the study of Voter Identification requirements. The contractors were then to make recommendations of alternative approaches related to the future implementation of HAVA voter identification requirements.

The contract was extended on two occasions to allow for additional review, including an EAC-initiated review conducted by an independently-convened panel of experts who provided input to the EAC and to Eagleton on the first draft of this statistical analysis of voter identification requirements.

The Eagleton Institute submitted its draft report to EAC on best practices to improve voter identification requirements on June 28, 2006.

Presenter: Thomas M. O'Neill, Project Director for the Eagleton-Moritz Project, Visiting Associate, Eagleton Institute of Politics, Rutgers University.

The Voter Identification report raised more questions than providing answers. The general view today is that individual citizens choose whether to vote by comparing costs and benefits. Factors like time, hassle, and acquisition of information determine the likelihood of whether someone will vote.

A key part of the study was a statistical analysis to examine how turnout may vary under different voter ID requirements. Using that statistical study Eagleton developed a model to illuminate the relationships between voter ID requirements and turnout. The model's findings and limitations suggest avenues for further research and analysis that may assist the EAC and the states as they explore policies to balance the goals of ballot integrity and ballot access.

It is also important to note that with the increased adoption of ID requirements in states like Indiana there is an increased opportunity to study their effect on voting. It is also important to note that while the analysis suggests that stricter voter ID requirements can be associated with low voter turnout, the study was not designed to look at the other side of the equation which is to do tighter ID

requirements reduce multiple voting or voting by ineligible voters. That kind of information was not within the scope of the study.

Presenter: Tim Vercellotti, Assistant Research Professor,
Assistant Director, Center for Public Interest Polling,
Eagleton Institute of Politics, Rutgers University

The research looked at the variation of turnout based on voter ID requirements. The study used five categories to determine a maximum voter ID requirement. These categories are: give name, sign name, signature match, provide non-photo ID, or presenting photo ID. It is important to keep in mind that in some states there are exceptions to these requirements if individuals lacked the necessary forms, and states set a minimum standard to get a regular ballot. These minimum requirements were: affidavit was used to swear to identity, give name, sign name, signature match, and non-photo ID. Presentation of a photo ID was never used as a minimum requirement.

The data produced mixed results. However, it is important to keep in mind that in order to get proper data one must look at other factors such as if this were a Presidential election year or if this were an area with a tightly contested contest, and other sociological data. The data showed a slightly negative association between voter turnout and non-photo ID. The study did not find an association between requiring a photo ID and voter turnout, in terms of the maximum requirements.

Looking at the minimum requirements, those models showed no significant associations between requiring various forms of ID and variation in turnout. That is of course at an aggregate level not at an individual level.

The study also used the 2004 current population survey conducted by the Bureau of Labor and Statistics to compile data. Using those numbers the study found the percentage of individuals who turned out to vote who identified themselves as registered voters were 2.9 percent less likely to say they turned out in photo ID states compared to states that simply required voters to state their name at the polling place.

The numbers from the current population survey also allowed for a breakdown by race. Based on race and ethnicity this breakdown found that between African-Americans, Hispanics, and Asian Americans, there was no statistically significant relationships between the probability of having said one had voted and lived in a state that required photo ID. However, the study did find statistically significant relationships between having said one voted and living in a state that required non-photo ID. All of the ethnic groups studied indicated that they were less likely to say they had turned out to vote in states where non-photo ID was required

compared to states that required voters to simply state their names at the polling place.

Looking at the experiences of white voters, the study did find a statistically significant relationship between living in a state requiring photo ID and being less likely to say you had voted in November, 2004 election. There are a number of potential explanations for this statistic including the number of respondents and the lack of statutory photo ID requirements in those states.

Chair Davidson then opened the floor for questions to the panel.

Chair Davidson then made a request of the Executive Director that within 30 days he recommend to the Commission on how the EAC should move forward and what the final outcome of this initial research will be, and that information be placed on the website.

Recess

Chair Davidson recessed the meeting until 1:10pm.

EAC Audit Process and State Observations

Presenter: Curtis Crider, Inspector General, U.S. Election Assistance Commission

Mr. Crider presented a brief overview of the EAC Office of Inspector General. The office's mission is to conduct audits and investigations of EAC operations. The goal of the office is to enhance economy and efficiency of EAC operations. The IG's office issues a semi-annual report to Congress every 6 months. It is also the responsibility of the office to audit state spending of HAVA funds as required by HAVA. All of these reports are placed up on the web to increase transparency.

Currently the IG's office is starting audits of Wyoming and Missouri. The office has completed seven audits so far and there are currently five audits in progress. The IG's office are planning on starting audits in Missouri, Wyoming, Washington, Nevada, Oregon, Iowa, and Alabama by the end of 2007. Also, some states will need to be re-audited because the EAC did not yet have a chance to audit all of the funds received, California is an example.

The IG's office is planning to put the audit plan up on the web in October, 2007 in order to give the states advanced notice, in terms of who will be on the schedule for 2008. This is with the understanding that there may be some changes based on special requirements or special needs. The audit plan is very aggressive, but completion of that audit plan depends largely on how many resources are available.

Presenter: Roger LaRouche, Deputy Inspector General, U.S.
Election Assistance Commission

Mr. LaRouche first presented on how audits of the states spending of HAVA funds are conducted. Before visiting a state, the IG's office contacts the state and lets them know when the audit will be starting and the activities covered by the audit.

The IG's office then reviews prior audit reports and looks at the states web site to obtain preliminary information. Once the auditors arrive in the state there is a process that must take place. First, they look to see if there are separate accounts for the different funds being audited. Then financial reports that are given to EAC are checked to make sure the funds actually in accounts match those reports. The auditors then look for barriers to competition and make sure all contracts are done competitively. Next they look to the counties to make sure that funds given by State to county are managed properly. Finally they look for an election fund and confirm that everything is up to date in that fund.

Mr. LaRouche then indicated the means by which the IG's office delivers information to the states regarding the audit. First, while onsite the auditor writes up a notification of findings and recommendations. Then, before leaving the site the auditors conduct an exit conference with the appropriate state officials. After leaving the site the auditors issue a written, non-binding report. Finally, the IG's office releases a final audit report to the public after the executive director of the EAC reviews the report and approves it.

Mr. Larouche next reported some of the general problems found by the audits already completed. These problems included non-competitive procurement issues, unsupported salaries, funds used outside the scope of what HAVA allows, incomplete records of equipment purchases, undocumented maintenance of records, understated matches by the state, and loss of interest.

Presenter: Dan Glotzer, HAVA Grant Manager, Texas Secretary
of State's Office

Mr. Glotzer presented an overview of the EAC's audit process from the point of view of the Texas Secretary of State's office. He indicated that preparation and coordination with the EAC are important aspects of the process. In order to prepare for the audit the State of Texas identified who needed to participate in the process and put the EAC in contact with those people.

Mr. Glotzer then made some suggestions on how to make the audit process go as smoothly as possible. First, prepare as much documentation as possible, and provide as much info as possible to the auditors. The more information provided the easier it is for the auditor to evaluate. Also, the auditor must know who to

speak with in order to make the process efficient. Preparing the materials so they are ready to be evaluated is also important. Having a staff member that is familiar with auditing and having them available meet with the auditor to help is a helpful suggestion. States should view the audit in a positive light and be proactive solving the problems presented by the audit.

Presenter: Marci Andino, Executive Director, State Election Commission, South Carolina

Ms. Andino then briefed the Commission on the South Carolina audit experience. She indicated that this was the South Carolina State Election Commissions first experience with Federal Funds. When South Carolina found out they were being audited they asked other agencies in the state who receive Federal Grants for advice on how to prepare for it.

Several findings came about as a result of the audit. First, there was a problem with the matching requirement calculation. Second, they did not place state machines on inventory as required. Third, there were some questions as to the purchase of a bus for voter registration and information services. Finally, counties did not keep sufficient records of the machines purchased which caused some confusion for the auditor.

Ms. Andino then made several recommendations on how to deal with the audit. First, cooperate with the auditor. Also, get requested information together before audit takes place so as to make process go more quickly and efficiently. Also, it is important to calculate your interest by section and title which is different from most other funds.

There are a couple of recommendations for the EAC and the IG's office in conducting these audits. There needs to be more guidance on HAVA requirements as far as spending and documentation. Also, the EAC needs to answer questions in a timely manner so as to help the states as quickly as possible.

Chair Davidson then opened the floor for questions.

Adjournment

Chair Davidson gave some closing comments and adjourned the meeting at 2:10 PM.